

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JAMES L. ROUDABUSH, JR.,

Petitioner,

v.

J. HOLLINGSWORTH, et al.,

Respondents.

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Civil Action No. 15-7838 (PGS)

MEMORANDUM OPINION

It appearing that:

1. Plaintiff, a prisoner confined at FCI Fort Dix, submitted a Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241. (Pet., ECF No. 1.) Petitioner alleges that his health is in danger due to a denial of medical care as ordered by Dr. Turner Foster. (Pet. 1.) He further alleges that he is lacking a “healthy nutritious diet” and is being held in cells with mentally ill and violent inmates. (*Id.*) Petitioner further alleges that he is being abused, harassed and discriminated against in a conspiracy to retaliate against him for his civil actions in federal court. (*Id.* at 1-2.)

2. Petitioner’s claims involve the conditions of his confinement, and do not challenge the execution of his sentence. A finding in Petitioner’s favor on these claims would not alter his sentence or undo his conviction. *See Leamer v. Fauver*, 288 F.3d 532, 542 (3d Cir. 2002) (“when the challenge is to a condition of confinement such that a finding in plaintiff’s favor would not alter his sentence or undo his conviction, an action under § 1983 [or Bivens] is appropriate.”)

3. Therefore, in the accompanying Order filed herewith, this Court will dismiss the present petition for lack of jurisdiction. *See Cardona v. Bledsoe*, 681 F.3d 533 (3d Cir. 2012)

(district court correctly dismissed § 2241 petition for lack of jurisdiction where petitioner alleged his placement in prison's Special Management Unit was retaliation for his lawsuits). Petitioner may raise these issues by submitting either the \$400 filing fee for a civil rights action or a properly completed *in forma pauperis* application, and a properly completed prisoner civil rights complaint.

Dated:


Peter G. Sheridan, U.S.D.J.